IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO. 22794 of 2004

Between:

Sanichetty Sudhakar S/o S.M. V. Krishnaiah Chetty,
age:55 yrs, HPC Dealer, Bahadurpet, Srikalahasti of Chittoor District.

..... PETITIONER

AND

1 The Commercial Tax Officers, Puttur, Chittoor District.
2 The Deputy Commercial Tax Officer, Srikalahasti, Chittoor District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the 2nd respondent in attaching D. No. 11/51 where the petitioner's Kerosene go down at Bahadurpet, Srikalahasti and the vacant site 17ff., X 69 Ft., with assessment No. 1503 in the 11th Ward of Bahadurpet, Srikalahasti Chittoor District and consequent publication made in Chittoor District Gazette, dt 15-10-2004 proposing the auction of the properties on 16-12-2004 pending disposal of his statutory appeal before the appellant Deputy Commissioner, Kurnool as illegal, arbitrary and violative of principles of natural justice and also the provisions of Sections 27 and 36 of Revenue Recovery Act and restrain the 2nd respondent from in any way auctioning the aforesaid properties as published in Gazette Notification, dated 15-10-2004 on 16-12-2004 or any other date to which the auction may be adjourned, pending disposal of the writ petition.

Counsel for the Petitioner:MR.M.DORAI RAJ

Counsel for the Respondent Nos.1 and 2:MR.K.RAJI REDDY (SP SC FOR CT)

The Court at the admission stage made the following Order:

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THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO. 22794 of 2004

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ORAL ORDER: (per the Hon'ble Mr.Justice M.H.S.ANSARI)

Having heard the learned counsel for the petitioner as also the submissions orally made by the learned Special Standing Counsel for the respondent department, we are not inclined to entertain the instant writ petition. This is for the reason that the petitioner has efficacious alternative remedy of appeal under Section 19 of the A.P.General Sales Tax Act, 1957 (for short 'the Act) and also we notice that under Sub-section 2(a) of the Act, the appellate authority has been conferred the power to order stay of collection of tax under dispute, pending disposal of the appeal. In such view of the matter, the writ petition is dismissed with liberty, however, to the petitioner to avail of the efficacious alternative remedy if he so desires and as he may be advised.

The writ petition is accordingly dismissed at the admission stage. No order as to costs.

_____ M.H.S. ANSARI,J

09.12.2004

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B.SESHASAYANA REDDY,J

Note:Furnish copy in two days

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Usd/klp

To

1. The Commercial Tax Officers, Puttur, Chittoor District.
2. The Deputy Commercial Tax Officer, Srikalahasti, Chittoor District
3. Two CCs to G.P. for Commercial Taxes, A.P.High Court Buildings, Hyderabad (OUT)
4. Two CD copies.